STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of DEON LEE KELLEY, JR., CAMERON DIVANTE KELLEY, DIANA HAZEL-SHIREICE KELLEY, and MOSES ALLEN KELLEY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

V

KIMBERLY KELLEY,

Respondent-Appellant,

and

DEON LEE KELLEY, SR.,

Respondent.

UNPUBLISHED
October 26, 2001

No. 233067
Kalamazoo Circuit Court
Family Division
LC No. 92-000012-NA

Before: Griffin, P.J., and Markey and Meter, JJ.

PER CURIAM.

Respondent-appellant ("respondent") appeals by right from the family court's order terminating her parental rights to four minor children under MCL 712A.19b(3)(c)(i) ("[t]he parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds . . . [that t]he conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age"); MCL 712A.19b(3)(g) ("[t]he parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age"); and MCL 712A.19b(3)(j) ("[t]here is a reasonable likelihood, based on the conduct or capacity of

the child's parent, that the child will be harmed if he or she is returned to the home of the parent"). We affirm.

This Court reviews for clear error a family court's finding that a statutory basis for termination has been met. MCR 5.974(I); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). Once a statutory basis has been proven by clear and convincing evidence, the court must terminate parental rights unless the court finds that termination is clearly not in the best interests of the child. *Trejo,* supra at 344, 355. A court's finding on the best interests prong is also reviewed by this Court for clear error. *Id*. at 356-357, 365.

Respondent contends that the family court erred in terminating her parental rights to the children because the court, in making its ruling, considered the fact that respondent had not undergone a scheduled neuropsychological examination to assess the cognitive effects of a 1999 automobile accident. Respondent contends that the trial court should not have held the lack of this examination against her, because the reason she failed to attend the examination was lack of funds. Respondent additionally contends that the trial court should not have terminated her parental rights because she could have been an effective parent if provided with medication to address her mental health issues.

Respondent's arguments are without merit. First, we note that the following testimony from the termination hearing amply supported the family court's decision to terminate respondent's parental rights: (1) the testimony by a psychologist, Aubrey Gordon, that respondent suffered from a "dissociative disorder," which is similar to a split personality, and that respondent's mental problems began in childhood; (2) Gordon's testimony that respondent focused a great deal of her energy on her romantic partner to the point that she neglected herself and her children's needs; (3) Gordon's testimony that respondent could parent at only forty percent effectiveness; (4) Gordon's testimony that respondent could not provide long-term emotional support for the children; (5) the testimony by a foster care worker, Cheri Swalwell, that respondent failed to provide a consistent, suitable home for the children; (6) Swalwell's testimony that Deon often returned from visitation with an unchanged diaper and poor hygiene; (7) Swalwell's testimony that respondent failed to appear for a court-ordered neuropsychological examination or for rehabilitative therapy after an automobile accident left her with neurological problems;[1] (8) the testimony by a social worker, Constance Black-Pond, that Moses' emotional development was seriously disrupted and that he needed a more effective parent than respondent; (9) the testimony by Cameron's therapist, Mary Baggerman, that Cameron feared being harmed by his parents, that he had improved his anger management skills since being removed from his parents' home, and that terminating respondent's parental rights was in Cameron's best interests; (10) the testimony by Diana's therapist, Pamela Stinchcomb, that Diana once told her that during a visit with her parents, her uncle twisted her arm, respondent stated, "[y]ou can't twist her arm because she's still in foster care," and the uncle then hit respondent in the face; (11) Stinchcomb's testimony that it was in Diana's best interests to terminate respondent's parental rights; (12) Stinchcomb's testimony that respondent expressed doubts to her about being able to

[1] The hearing testimony established that the accident left respondent with *additional* mental problems, on top of those arising in childhood.

parent all four children; (13) the testimony by a court-appointed special advocate, Roberta Allen, that the children needed a lot of support and that respondent's parental rights should be terminated; (14) respondent's testimony that because of cognitive problems, she could only focus on one thing, such as cooking, at a time; and (15) respondent's testimony that she could not raise all four children.

This evidence showed that termination was in the children's best interests and that respondent, without regard to intent, could not provide proper care for the children and would not be able to do so in a reasonable amount of time. Accordingly, the family court did not clearly err in ruling that termination was warranted under MCL 712A.19b(3)(g) and was in the children's best interests. Because only one statutory basis need be established to warrant termination, see *Trejo, supra* at 360, we need not decide whether the court properly relied on additional statutory grounds in terminating respondent's parental rights.

Moreover, respondent's arguments regarding medication and regarding the neuropsychological evaluation are unavailing. Indeed, although Gordon testified that medication would have helped address respondent's mental problems, there was no testimony that the medication would have made respondent a suitable parent for the children in a reasonable amount of time. Indeed, Gordon emphasized that respondent had a longstanding mental illness that began in childhood and that would take "very long-term work" to address. Additionally, Swalwell testified that respondent failed to follow through with *any* referrals having to do with physical and occupational therapy after the 1999 accident, and other witnesses testified that respondent failed to attend numerous scheduled appointments during the child protective proceedings. Given respondent's failure to appear at multiple appointments and the lack of evidence that she alerted petitioner to her alleged funding problem or sought help from petitioner in paying for the neuropsychological examination, we find no error with the trial court's ruling. Finally, we note that even disregarding respondent's failure to attend the neuropsychological examination, there was sufficient evidence to support the termination of respondent's parental rights.

Affirmed.

/s/ Richard Allen Griffin
/s/ Jane E. Markey
/s/ Patrick M. Meter